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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,432	08/01/2003	Vincent J. Zimmer	INTEL/16808	4540
34431 7590 01/15/2008 HANLEY, FLIGHT & ZIMMERMAN, LLC 150 S. WACKER DRIVE SUITE 2100 CHICAGO, IL 60606			EXAMINER PATEL, HETUL B	
			ART UNIT 2186	PAPER NUMBER
			MAIL DATE 01/15/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/633,432

Applicant(s)

ZIMMER ET AL.

Examiner

Hetul Patel

Art Unit

2186

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-13, 15-28, 30-43 and 45.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

As to the remark, Applicant asserted that

(a) One of ordinary skill in the art would have understood based on Paragraph [0040] that, to determine if the pointer entry is pointing within the temporary memory heap (Para. [0041]), it should be determined if the pointer value is inside the range of the temporary memory location (as recited in the amendments to the claims). In other words, it is to be determined if the pointer value is greater than the bottom of the temporary memory heap and less than the top of the temporary memory heap.

(b) In this case, the only amendments to the claims were to incorporate the subject-matter of dependent claims. No subject-matter was removed and no new subject-matter was added to the claims. Accordingly, the applicants respectfully request that finality of the official action be withdrawn.

(c) The rejection of claim 1 under 35 U.S.C. § 102 is improper because the applicants note that the examiner rejected recitations different from the recitations of claim 1 (see official action, Page 3, lines 13-16).

(d) The rejection of claim 1 under 35 U.S.C. § 102 is improper because the rejection did not cite any portion of Zimmer as describing the final recitation of claim 1 (see official action, page 5, lines 8-13). Rather, the rejection merely states a conclusion that such a recitation is described in Zimmer without providing any support for such a conclusion. Even if the examiner's contention that migrating the copied data and modifying a value in the main memory is inherent in such a state, a point which the applicants do not concede, it is not clear why it would be inherent to verify the value in the main memory as identifying the temporary memory by determining if the value is greater than a bottom of the temporary memory and is less than a top of the temporary memory. Therefore, claim 1 and all claims depending therefrom are patentable over the cited art.

Examiner respectfully traverses Applicant's remark for the following reasons:

With respect to (a), the pending claims recites about "identifying the temporary memory by determining ..." and not about "identifying the temporary memory heap". In the Fig. 3 of the current application, both the temporary memory 104 and the temporary memory heap 308 are shown. The pending claims recites about "identifying the TEMPORARY MEMORY by determining if the value is GREATER THAN A BOTTOM of the temporary memory and is LESS THAN A TOP of the temporary memory". The region covering greater than a bottom and less than a top of the temporary memory is everything other than 104 in Fig. 3 (i.e. regions 302 and 106), which is everything other than the temporary memory. Therefore, Examiner maintains that the 112 rejection made in the last office action is proper.

With respect to (b), Examiner would like to point out to Applicant that by incorporating the subject matter of dependent claims 14, 29 and 44, the scope of claims 14, 29 and 44 (which are now 1, 16 and 31) is not changed. However, the scope of the claims 2-13, 15, 17-28, 30, 32-43 and 45 is changed by this incorporation and therefore, the finality of the last office action is proper.

With respect to (c), the 112 rejection made in the last office action is proper as described above in response to argument (a): Since the claim limitation is opposite than what disclosed in the specification and drawings of the current application, the claimed subject matter was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Therefore, for the purpose of examination, Examiner interpreted this limitation the last claimed limitation as what appears to be supported by the specification and drawings of the current application, i.e. "the value in the main memory is verified as identifying the temporary memory by determining if the value is greater than a too of the temporary memory and is less than a bottom of the temporary memory".

With respect to (d), Examiner missed the word "inherently" in line 8 of page 5 in the last office action due to a typographical error (i.e. Examiner meant to say "Furthermore, Zimmer also inherently discloses ..." in line 8 of page 5 in the last office action). The step of, verifying the value in the main memory as identifying the temporary memory by determining if the value is greater than a top of the temporary memory and is less than a bottom of the temporary memory, has to be inherent in the method taught b Zimmer because during moving the data from the temporary/cache memory into the main memory it has to identify the temporary/cache memory by identifying the limits described above because it reads data from the temporary memory.



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